

**Remarks**

Claims 1-20 are pending in the application. Claims 1-20 were rejected. Claims 1 and 12-16 are amended. Claim 1 is the independent claim. Reconsideration of the amended application is respectfully requested.

The examiner requires a drawing under 37 CFR 1.81(c), noting that the current drawing is not acceptable. A replacement drawing sheet is submitted herewith addressing the examiner's comments.

The examiner objected to the abstract as having an improper heading, and objected to the disclosure because of certain noted informalities. The written description is amended to address the examiner's comments. The objection, therefore, should be withdrawn.

The examiner objected to claims 1, 12, 15, and 16 as being indefinite. The claims are amended to address the examiner's comments. The objection, therefore, should be withdrawn.

The examiner rejected claims 13-15 under 35 USC §112 as not being enabling. The claims are amended to address the examiner's comments, and are now enabling. The rejection, therefore, should be withdrawn.

The examiner rejected claims 1-10, 13, 19, and 20 under 35 USC §102(b) as being anticipated by Prokoski et al.

Independent claim 1 recites a method for determining the suitability of a digitized image of a person for person identification. According to the claimed method, the image of a person is segmented into a background area and a head or face area. The head or

face area is analyzed to determine at least one characteristic value. The at least one characteristic value is compared with at least one predetermined threshold value. The suitability determination is made, based on the result of the threshold comparison.

Thus, according to claim 1, a method is recited for determining whether an image of a person is suitable to be used in an automatic identification process. This determination is an important factor in the identification process, as the quality of images used can play a large role as to whether a valid comparison can be made when attempting to identify a person. See the specification on page 2 at lines 11-16. A determination ahead of time as to whether the image is suitable for later identification use avoids problems later when the actual identification process must be relied on. The claimed invention addresses this issue by providing a method of making this determination. See, for example, the specification on page 3 at lines 18-20.

In contrast, Prokoski et al. a method for identifying individuals from an analysis of elemental shapes derived from biosensor data. Prokoski et al. thus provide a biometric solution to image identification, generating a thermal image of a subject, which is processed to produce a digital representation. The digital representation is not a digitized image of the subject, but rather is a matrix of pixels, wherein each pixel corresponds with a level of thermal energy of a corresponding portion of the representation. See Prokoski et al. at column 3, lines 19-37 and column 5, lines 38-51.

Prokoski et al. describe an enrolment process during which a valid reference image is generated with respect to a subject. See column 5, lines 32-51. It is during this enrolment process that a suitability determination such as that recited in claim 1 would be

performed. However, Prokoski et al. are silent as to making such a suitability determination. When later making an actual identification determination, a correlation threshold is used. See column 7, line 56 through column 8, line 35. At this point, thermal imaging representations of a reference image and a captured image are cross-correlated, and the result is compared to a threshold in order to make an identification determination. However, this is not a suitability determination, as recited in claim 1. When making the identification determination, suitability is necessarily presumed. Prokoski et al. assume that the thermal imaging process will produce a reliable reference image, which in turn presumes a level of suitability of the reference image. See column 1, line 67 through column 2, line 17.

Thus, where claim 1 recites a suitability determination based on a single image, Prokoski et al. disclose a comparison of two images. Both methods use thresholds, but whereas the method of claim 1 uses a threshold value in making the suitability determination with respect to a single image, Prokoski et al. use a threshold to make an identification determination with respect to two images. The Prokoski et al. system could benefit from the use of the claimed suitability determination, but the reference itself does not disclose or suggest its use.

For at least the reasons noted above, it is submitted that Prokoski et al. do not anticipate the invention as recited in claim 1. Claims 2-10, 13, 19, and 20 depend from claim 1, and therefore also are not anticipated by Prokoski et al. The rejection of claims 1-10, 13, 19, and 20, therefore, should be withdrawn.

The examiner rejected claims 11, 12, and 14-17 under 35 USC §103(a) as being unpatentable over Prokoski et al., in view of Fung et al.

Claims 11, 12, and 14-17 depend from claim 1, which is discussed above with respect to Prokoski et al. Fung et al. disclose an image processing method and apparatus. Fung et al. do not overcome the deficiencies of Prokoski et al. in disclosing the features of claim 1, and therefore of claims 11, 12, and 14-17. That is, Fung et al. also are concerned with a determination based on a comparison of two images, not a determination of suitability based on an evaluation of a single image.

Claims 11, 12, and 14-17 all deal with correction of the single image. That is, if a suitability determination is made in which the image is found not to be suitable, correction is made to bring the image over the threshold of suitability. Fung et al., in contrast, discuss searching a library of images for the best match against a target image. Fung et al. are concerned with finding a closest match from the library, and modifying the presentation of the target image or images in the library in order to make the best comparison determination. See column 4, lines 6-50. Fung et al. do not disclose or suggest correction of a reference image to make it more suitable for a later comparison to a second image.

For at least the reasons noted above, it is submitted that no combination of the teachings of Prokoski et al. and Fung et al. could render obvious the invention as recited in claims 11, 12, and 14-17. The rejection of claims 11, 12, and 14-17, therefore, should be withdrawn.

The examiner rejected claim 18 under 35 USC §103(a) as being unpatentable over Prokoski et al. '094, in view of Fung et al., and further in view of Prokoski et al. '435.

Claim 18 depends from claim 1, which is discussed above with respect to Prokoski et al. '094 and Fung et al. Prokoski et al. '435 disclose a dual-band biometric identification system. Prokoski et al. '435 is concerned with an identification match between two images, and do not overcome the deficiencies of Prokoski et al. '094 and Fung et al. as discussed above. It is therefore submitted that no combination of the teachings of Prokoski et al. '094, Fung et al., and Prokoski et al. '435 could render obvious the invention as recited in claim 18. The rejection of claim 18, therefore, should be withdrawn.

Based on the foregoing, it is submitted that all objections and rejections have been overcome. It is therefore requested that the Amendment be entered, the claims allowed, and the case passed to issue.

Respectfully submitted,



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Date

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